

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>Lee Jones,</b>	)	<b>CASE NO. 1:23 CV 1383</b>
	)	
<b>Petitioner,</b>	)	<b>JUDGE PATRICIA A. GAUGHAN</b>
	)	
<b>vs.</b>	)	
	)	
<b>Douglas Fender, Warden,</b>	)	<b><u>Memorandum of Opinion and Order</u></b>
	)	
<b>Respondent.</b>	)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge James E. Grimes, Jr. (Doc. 10) which recommends dismissal of the Petition for Writ of Habeas Corpus pending before the Court. No objections were filed. For the following reasons, the Report and Recommendation is ACCEPTED.

**Introduction**

Petitioner, Lee Jones, commenced this action with the filing of a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Magistrate Judge issued his Report and Recommendation recommending that the Petition be dismissed as untimely. Petitioner has failed

to file objections to the Report and Recommendation.

**Standard of Review**

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, “The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation.” When no objections have been filed, this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

**Conclusion**

The Magistrate Judge determined that the Petition was time-barred by the applicable statute of limitations as it was filed beyond the due date even after accepting that petitioner’s motion to withdraw his guilty plea tolled the statute of limitations. This Court fully agrees with the reasoning and conclusions of the Magistrate Judge and, having found no clear error, completely adopts his factual and legal conclusions as its own and incorporates them herein by reference. Accordingly, for the reasons set forth in the Magistrate Judge’s Report and Recommendation, the Petition for Writ of Habeas Corpus is dismissed.

Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R.App.P. 22(b).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
United States District Judge

Dated: 7/30/24